The Commonwealth of Massachusetts
Senate
State House • Boston • 02133

February 15, 2008

Dr. David Cash
Assistant Secretary for Policy
MA Executive Office of Energy and Environmental Affairs (EEA)
100 Cambridge Street
Boston, MA 02114

Dear Dr. Cash:

As members of the Massachusetts Advanced Biofuels Task Force, we are pleased to offer comments to EEA to be considered for the forthcoming draft report regarding biofuels.

First and foremost, we fully support adoption of a Low Carbon Fuel Standard (LCFS) at the state (and regional) level in the intermediate term. However, because the development and adoption of this policy is expected to take several years, we support additional policies to be implemented in the immediate term that will diversify our fuel markets and give consumers a choice at the pump.

Blending Requirements and Gasoline Tax Exemptions for Advanced Biofuels with Transition to Low Carbon Fuel Standard (LCFS)

- We encourage EEA to recommend that the Commonwealth require all blends of diesel fuel to contain a percentage of renewable diesel, similar to the compliance schedule in H4364. This policy shall be triggered by in-state production targets. We also recommend that the state adopt language contained in the federal Energy Independence and Security Act of 2007 (EISA07) regarding greenhouse gas emission reductions and land use protections (see attached).

- We encourage EEA to recommend that the Commonwealth require all gasoline to contain 10% ethanol. As you know, all gasoline sold in Massachusetts already contains 10% ethanol. However, this is a product of market forces. Requiring E10 blends will provide market certainty, which will catalyze infrastructural development and provide a boost for companies planning to market cellulosic ethanol in the region.

- We encourage EEA to recommend that the Commonwealth exempt all advanced biofuels (as defined by EISA07) from the state's gasoline excise tax. This means that eligible fuels would need to achieve at least 50% greenhouse gas reductions over petroleum, as determined by the state. This policy, coupled with the interim blending requirement, will push the renewable diesel and ethanol markets toward greater sustainability.

- We encourage EEA to recommend that the Commonwealth immediately begin the process of assessing, designing and ultimately implementing a LCFS. It appears that the state can take at least two immediate steps: (1) include in any legislation a 12-month LCFS feasibility analysis, inclusive of legal, environmental and other policy considerations, and in collaboration with local groups already investigating LCFS implementation; (2) give the state explicit authority to, upon notice and comment, review and amend the blending rules in deference to an adopted LCFS.

Rationale: Interim blending requirements ensure that we start to make progress while more sophisticated policies are developed. They also catalyze infrastructural development, based on the guaranteed emergence/maintenance of renewable fuel markets in Massachusetts. The "Advanced Biofuel Excise Tax Exemption" pushes the marketplace toward second generation biofuels with greater greenhouse gas performance. Ultimately, the state has the authority to amend the program in deference to a carbon-based performance standard.

Production Tax Credits, Alternative Fuel Corridor and Research and Development Funding

- We encourage EEA to recommend that the Commonwealth offer production tax credits to local producers of alternative fuels. These programs are popular in other states, and can include minimum production thresholds and caps to control costs. The primary goal here is to attract production to the Commonwealth.

- We encourage EEA to recommend that the Commonwealth offer tax credits for biofuel and biomass feedstocks from managed forests. This would help bridge the price difference in wood derived from forestry operations and wood from land clearing. As wood from land clearing is subsidized by the business model of development, these chips are regularly less expensive and more economically attractive to large biomass energy plants. The goal of this Tax Credit would be to help chips from forestry operations become competitive with land-clearing derived chips, and provide for the important public benefits associated with responsible utilization of the biomass marketplace. It may also help in maintaining the working landscape by keeping lands out of development. An energy tax credit would help reduce the price of fuel (wood chips) by aligning the interests of the landowners, harvesters, foresters, and biofuel/biomass facilities.

- We encourage EEA to recommend that the Commonwealth implement an "Alternative Fuel Corridor Program" designed to ensure the availability of alternative and/or renewable fuels, such as E85 and higher renewable diesel blends, in high traffic corridors. Requiring the highest volume stations in the Commonwealth to have at least one alternative fuel pump is one approach that should be considered. The ideal program has infrastructural assistance.

- We encourage EEA to recommend that the Commonwealth support the R&D efforts of bio-energy companies located in-state, similar to the state's financially

commitment to the biotech industry. The state would leverage significant outside monies (federal/grants/etc) for additional R&D, and would increase long-term tax revenue and employment by supporting these technologies.

Rationale: If Massachusetts plans to play a leading role in the development of advanced biofuels, it must enact policies that draw the industry to the state. Production incentives ensure that our demand-side commitment spurs local economic development. Also, one of the best ways to maximize the sustainability of an alternative fuels program is to localize the industry. Renewable fuel producer credits have created general fund revenues over time in the states that use them. A renewable fuel corridor program is the most efficient way to reach the largest number of drivers. And R&D funds represent an investment made upfront that will attract advanced bio-energy companies to the state, which will in turn provide jobs and significant local revenues.

Additional Comments: State RFS & Recent Studies on Biofuels

We are aware of the concern about blending requirements, and that some stakeholders prefer a more flexible, market-wide state Renewable Fuel Standard (RFS). We are generally supportive of this policy as an alternative pathway to a LCFS. However, we are also aware that it may be wise to implement more simple policies now, while reserving our rulemaking resources for the LCFS.

We are also aware of recent concerns about the land use impacts of biofuels. However, after conducting additional research into the matter, we believe that biofuels can be done the right way. One of the lead witnesses at our Boston Task Force hearing (Nathaniel Greene from the Natural Resources Defense Council) recently stated, "Do [these] articles mean that all biofuels are bad and that the [federal] RFS is going to harm the climate? The short answer is no and no . . . Fortunately, we knew about these dynamics before yesterday, and we've won a preemptive victory in getting the dynamics written into the [federal] legislation in the form of the land-use safeguards and minimum lifecycle GHG standards."

We believe the five recommendations above would actively position the state as a leader in the fuel diversification effort and would provide the proper foundation for a smooth transition to a LCFS.

We appreciate your leadership on this important matter, and would be happy to answer any questions you or your staff might have.

Sincerely,

BENJAMIN B. DOWNING
State Senator
Berkshire, Hampshire & Franklin District

BRUCE E. TARR
State Senator
First Essex & Middlesex District

From Energy Independence and Security Act of 2007:

ADVANCED BIOFUEL-
(i) IN GENERAL- The term `advanced biofuel' means renewable fuel, other than ethanol derived from corn starch, that has lifecycle greenhouse gas emissions, as determined by the Administrator, after notice and opportunity for comment, that are at least 50 percent less than baseline lifecycle greenhouse gas emissions.
(ii) INCLUSIONS- The types of fuels eligible for consideration as `advanced biofuel' may include any of the following:
(I) Ethanol derived from cellulose, hemicellulose, or lignin.
(II) Ethanol derived from sugar or starch (other than corn starch).
(III) Ethanol derived from waste material, including crop residue, other vegetative waste material, animal waste, and food waste and yard waste.
(IV) Biomass-based diesel.
(V) Biogas (including landfill gas and sewage waste treatment gas) produced through the conversion of organic matter from renewable biomass.
(VI) Butanol or other alcohols produced through the conversion of organic matter from renewable biomass.
(VII) Other fuel derived from cellulosic biomass.